IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 16015 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BABUBHAI SUNDERJIBHAI CHIKHA- LIA

Versus

DISTRICT DEVELOPMENT OFFICER

Appearance:

1. Special Civil Application No. 16015 of 2003

MR MRUGEN K PUROHIT for Petitioner No. 1

MR MUKESH R SHAH for Respondent No. 1

NOTICE SERVED for Respondent No. 1,3-4

MR HD DAVE, ASST. GOVERNMENT PLEADER for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE A.R.DAVE

Date of decision: 12/02/2004

ORAL JUDGEMENT

Rule. Service of rule is waived by learned AGP Shri HD Dave for respondents Nos. 2 and 4, whereas learned advocate Shri M.R. Shah waives service of rule for respondents Nos. 1 and 3. At the request of the learned advocates, the petition is finally heard today.

2. The petitioner has been aggrieved by an order dated 25/28th August 2003, whereby respondent No. 4 did not grant interim relief in favour of the petitioner, though his revision application has been admitted by him. It is the case of the petitioner that, if interim relief is not granted during the pendency of the revision application, the plot, which is the subject-matter of the litigation, might be disposed of by the Taluka Development Officer, Morbi, and in that event, the revision application filed by the petitioner might become infructuous. It is not in dispute that the plot bearing No. 22 situated at village Thorala, taluka Morbi, was to be sold to the petitioner on certain conditions at the auction. The petitioner could not fulfil the conditions and, therefore, the auction had been set aside. The order, whereby the auction has been set aside, is subject-matter of the revision application.

3. Looking to the facts of the case, the learned advocates have submitted that it would be just and proper if the revision application, which is pending before respondent No. 4, is decided at an early date and during the said period, the plot in question is not disposed of.

4. It is not in dispute that the petitioner could not make payment of the remaining amount and, therefore, the petitioner could not purchase the plot. The subject with regard to purchase of the plot is before respondent No. 4. Without going into the facts of the case, and without expressing any opinion on the subject-matter of the litigation, it is directed that the plot in question shall not be dispose of till the revision application is finally decided by respondent No. 4. Respondent No. 4 shall make an effort to see that the revision application pending before him is disposed of on or before 7.5.2004. Till the said revision application is disposed of, ad-interim relief granted by this court on 21.11.2003 shall continue.

5. It has been submitted by learned advocates Shri Purohit as well as Shri M.R. Shah that their counterparts appearing before respondent No. 4 shall not pray for time unless there is a special reason and shall extend their co-operation to respondent No. 4 so as to enable him to decide the revision application finally

before 30.4.2004.

6. In view of the above order, the petition stands disposed of as allowed. The order dated 25/28th August, 2003 passed by respondent No. 4 is modified to the above extent. Rule is made absolute with no order as to costs. D.S. permitted.

(A.R. Dave, J.)

(hn)